

AUGUST 17, 2009

KAREN S. MITCHELL

CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

WILLIAM SHANE HICKS, PRO SE, §
also known as §
WILLIAM HICKS, §
TDCJ-CID No. 839032, §
§
Plaintiff, §
§
v. § 2:09-CV-0052
§
DR. NFN UY, GUY SMITH, T. JAMES, §
JOE GRIMES, NFN FERNANDEZ, §
and UNNAMED DEFENDANTS, §
§
Defendants. §

ORDER OF DISMISSAL

Plaintiff WILLIAM SHANE HICKS, while a prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division, filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-referenced defendants and has been granted permission to proceed *in forma pauperis*.

On July 23, 2009 a Report and Recommendation was issued by the United States Magistrate Judge analyzing plaintiff's claims and recommending dismissal with prejudice as frivolous and without prejudice for failure to state a claim on which relief can be granted. The Magistrate Judge further recommended that the Court decline to exercise pendant jurisdiction of any state law claims asserted; and they be dismissed without prejudice. *United Mine Workers v. Gibbs*, 383 U.S. 715, 86 S.Ct. 1130, 16 L.Ed.2d 218 (1966); *Corwin v. Marney, Orton Investments*, 843 F.2d 194, 200 (5th Cir.1988).

. On August 12, 2009, plaintiff filed a pleading entitled, "Declaration in Support of Request Motion and Show 'Excusable Neglect' See: Rule 6(b), Fed.R.Civ.P." No other pleading has been filed by plaintiff in response to the Report and Recommendation, and the Court construes the Declaration to be plaintiff's objections.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, as well as the Objections filed by the plaintiff.

The Court is of the opinion that the objections of the plaintiff should be OVERRULED and the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does OVERRULE plaintiff's objections, and does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that this Civil Rights Complaint is DISMISSED WITH PREJUDICE AS FRIVOLOUS AND WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED. The Court declines to exercise pendent jurisdiction over plaintiff's claims sounding in state law and such claims are DISMISSED WITHOUT PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

IT IS SO ORDERED.

SIGNED AND ENTERED this 17th day of August, 2009.

/s/ Mary Lou Robinson
MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE